

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF RHODE ISLAND

IN RE: KRISTIN M. ALLARD Chapter 7
Debtor BK No. 18-10820

**MOTION FOR i) EXAMINATION UNDER FEDERAL BANKRUPTCY
RULE 2004 AND ii) FOR PRODUCTION OF DOCUMENTS**

Charles A. Pisaturo, Jr., Chapter 7 trustee of the above referenced debtor's bankruptcy estate (the "Trustee"), by his attorney, hereby moves pursuant to Federal Bankruptcy Rule of Procedure 2004 and Local Rule 2004-1, that this Court enter an order: i) directing that Theresa Primo of 11 Hudson Street, 1st Floor, Providence, Rhode Island appear and make herself available for examination by the Trustee or his counsel at the Federal Center 380 Westminster Street, 6th Floor, Room 620, in Providence, Rhode Island on August 28, 2018 beginning at 10:00 A.M., or such other date and time as the Trustee and Theresa Primo agree; and ii) directing that Theresa Primo produce for the Trustee the documents identified in the accompanying Exhibit A by August 23, 2018 at the law office of trustee's counsel, 1055 Elmwood Avenue, Providence, Rhode Island. In support of this motion, the Trustee respectfully states as follows:

1. Kristin M. Allard, the debtor, filed a Chapter 7 bankruptcy petition in this Court on May 9, 2018. Charles A. Pisaturo, Jr., is the Chapter 7 trustee.
2. On information and belief, and according to the debtor's testimony as well as a copy of a recorded quitclaim deed provided to the trustee by the debtor, on January 9, 2017, the debtor transferred real estate located at 11 Hudson Street in Providence, Rhode Island (hereinafter the "Property") to Theresa Primo, for no consideration.
3. The trustee wrote to Ms. Primo on July 17, 2018. Ms. Primo responded to the trustee's letter by telephone on July 24, 2018. The trustee suggested to her that she retain

counsel. She indicated that she would respond further to the trustee after speaking with counsel. The trustee awaits a further response from Theresa Primo as to whether she will agree to be examined and produce documents.

4. Federal Bankruptcy Rule 2004 permits the “examination of any entity” provided the examination “relate[s] . . . to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate, or to the debtor’s right to a discharge.” Fed. R. Bankr. P. 2004(b). Moreover, the scope of Rule 2004 is “extremely broad.” *In re Youk-See*, 450 B.R. 312, 319 (Bankr. D. Mass. 2011), citing *In re GHR Energy Corp.*, 33 B.R. 451, 453 (Bankr. D. Mass. 1983) (“unfettered and broad”). The examination may properly extend to creditors who have had dealings with the debtor, including in appropriate cases such creditors’ policies and procedures. *In re Youk-See*, 450 B.R. at 322, 324.

5. The Trustee seeks to examine Theresa Primo regarding the transfer of the Property, including whether any consideration was paid to the debtor in exchange for the transfer of the property (the debtor already testified that there was no consideration). The transfer of the Property to Theresa Primo appears to be an avoidable fraudulent transfer under 11 U.S.C. §548. The Trustee seeks to examine Theresa Primo regarding any and all other matters, facts and circumstances relating to the referenced transfer as well as relating to the debtor’s present and past financial condition and the bankruptcy petition, as well as any other matter appropriate and allowable for a Bankruptcy Rule 2004 examination.

WHEREFORE, the Trustee moves that the Court enter an order: i) directing that Theresa Primo of 11 Hudson Street, 1st Floor, Providence, Rhode Island appear and make herself available for examination by the Trustee and/or the Trustee’s counsel at the Federal Center 380

Westminster Street, 6th Floor, Room 620, in Providence, Rhode Island for examination on August 28, 2018 beginning at 10:00 A.M. or such other date and time as the Trustee and Theresa Primo may agree; and ii) directing that Theresa Primo produce for the Trustee the documents identified in the attached Exhibit A by August 23, 2018 or at or by such other time as the parties may agree; and iii) granting such other and further relief as is just.

Charles A. Pisaturo, Jr., Chapter 7 Trustee
By His Attorney,

August 1, 2018

/s/ Charles A. Pisaturo, Jr.

CHARLES A. PISATURO, JR. (REG NO. 4615)
Law Offices of Charles A. Pisaturo, Jr.
1055 Elmwood Avenue
Providence, RI 02907
TEL: (401) 274-3800
FAX: (401) 751-6786

NOTICE

Within fourteen (14) days of service of this Motion for a Rule 2004 Examination, if served electronically, and an additional three (3) days pursuant to Fed. R. Bankr. P. 9006(f) if you were served by mail, or other excepted means specified, any party who objects to the examination shall serve and file an objection and/or motion for protective order with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objections or motions for protective order are timely filed, the motion for examination will be granted by the Court by endorsement order.

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of August, 2018, I served by electronic filing (ECF) or regular US Mail, a true copy of the within CHAPTER 7 TRUSTEE'S MOTION FOR EXAMINATION to the following parties: Gary L. Donahue, Esq., Assistant U.S. Trustee, Peter G. Berman, Esq., Marc D. Wallick, Esq.:

Theresa Primo
11 Hudson Street, 1st Floor
Providence, RI 02909

James J. McNulty
40 Court Street Suite 1150
Boston, MA 02108

PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541

/s/ Jennifer Peters
Jennifer Peters
Law Offices of Charles A. Pisaturo, Jr.
1055 Elmwood Avenue
Providence, RI 02907

EXHIBIT A

DEFINITIONS

For the purposes of this request for production, the following definitions control:

- A. "Documents" are documents, records, books, papers, contracts, memoranda, invoices, correspondence, notes, studies, reports, photographs, drawings, charts, maps, graphs, other writings, recording tapes, recording discs, mechanical or electronic information or recording elements, applications, settlement statements, and any other "documents" as defined in Rule 34, Fed. R. Civ. P. If a document has been prepared in several versions, or if additional copies have made which are not identical or are no longer identical by reason of subsequent notation or marking of any kind, each non-identical copy is a separate document.
- B. "Relating" means referring to, being evidence of, memorializing, or concerning in any way all or any portion of the specified facts or contentions.
- C. "Property" means the real estate located at 11 Hudson Street in Providence, Rhode Island evidenced by that certain quit claim deed a copy of which is attached hereto.

If an objection is made to a request or any portion thereof on a claim of privilege or any other basis, state with particularity the basis of the claim of privilege or other grounds asserted for nondisclosure, and identify each document or portion thereof withheld, together with a brief description of its contents.

REQUESTS

1. Any and all documents relating to that transfer dated on or about January 9, 2017, of the Property.
2. Any and all documents relating to and evidencing any and all consideration, money, funds, property or value of any kind given and or transferred to Kristin Allard in exchange for and/or relating to the January 9, 2017 transfer of the Property.
3. Any and all documents relating to any and all loans, liens and encumbrances, including any mortgages secured by and/or recorded against the Property since January 9, 2017, including any and all settlement statements.
4. An accounting and/or list of any and all monies, funds, or value of any kind charged and/or received for the rent and/or occupation of and/or residential boarding at the Property from January 1, 2017 to the present.
5. Any and all bank account statements relating to and/or evidencing any and all loan funds received by Theresa Primo relating to the Property.
6. Any and all documents relating to any loans secured by the Property.